

REMARKS

Reconsideration and allowance of the above-identified Application in view of the above amendments and the following remarks are respectfully requested.

In the Office Action of October 6, 2004, the Examiner rejected claims 1-4, 7-10, 13-14, and 16, under 35 U.S.C. §102(b), as allegedly being anticipated by Kanack '172 (U.S. Pat. No. 5,526,172).

The Examiner objected to claims 5, 6, 11, and 12 as being dependent upon a rejected base claim, but indicated that the claims would be allowable if rewritten in independent form. The Examiner also objected to claim 14 as containing a informality.

By this Amendment, Applicants have amended claims 1-12, have cancelled claims 13-17, and have introduced new claims 18-31. Applicants submit that no new matter has been added. After entry of this Amendment, claims 1-12 and 18-31 will be submitted for examination of which claims 1, 7, 18, 22, 25, and 29 are independent.

Applicants point out that the cancellation of claim 14 renders the objection to claim 14 moot. Accordingly, Applicants respectfully request that the objection to claim 14 be immediately withdrawn.

Applicants respectfully traverse the rejections, under 35 U.S.C. §102(b) for the following reasons:

I. Prior Art Rejections Under 35 U.S.C. §102(b).

The Examiner summarily asserted that the Kanack '172 reference teaches all of the features recited in independent claims 1 and 7. Applicants respectfully disagree.

Independent claims 1 and 7 have been amended to positively recite that the control electrode comprises a plurality of electrode elements, to which different voltages are applied individually. Ample support for this feature is provided in the

embodiments described in the Specification. (*See, e.g.*, Specification, page 13, line 25-26; and Fig 11).

The Kanack '172 reference discloses a structure in which control electrodes **46a** are arranged to oppose membrane **42** as shown in FIG 4. However, Kanack '172 specifically describes and depicts control electrodes **46a** as being commonly grounded 130. (*See, Kanack '172*: col. 15, lines 8-36; FIG. 4). Clearly, Kanack '172 is incapable of providing different voltages that can be individually applied to control electrodes **46a**.

As such, Kanack '172 clearly fails to teach or suggest that control electrode comprises a plurality of electrode elements, to which different voltages are applied individually, as required by claims 1 and 7. For at least this reason, the Kanack '172 reference does not teach the claimed combination of elements and, therefore, cannot be deemed to anticipate claims 1 and 7. Accordingly, Applicants respectfully request that the §102(b) rejection of claims 1 and 7 be immediately withdrawn.

Moreover, as best understood, none of the references of record, whether taken alone or in reasonable combination, appear to cure the deficiencies of Kanack '172. As such, independent claims 1 and 7 are also patentable in view of these references. In addition, because claims 2-6 and claims 8-17 depend from claims 1 and 7, respectively, claims 2-6 and 8-17 are patentable by virtue of dependency as well as for their additional recitations.

Regarding new independent claims 18, 22, 25, and 29, Applicants submit that these claims incorporate the features of the combination of original independent claims and depend claims in which the Examiner has already acknowledged as being allowable. In particular, new claim 18 incorporates the features of original independent claim 1 and dependent claim 5. New independent claim 22 incorporates the features of original independent claim 1 and dependent claim 6. Similarly, new independent claim 25 incorporates the features of original independent claim 7 and dependent claim 11. Also, new independent claim 29 incorporates the features of original independent claim 7 and dependent claim 12.

Finally, new claims 19-21, 23-24, 26-28, and 30-31 depend from new independent claims 22, 25, and 29, respectively. As such, new claims 19-21, 23-24, 26-28, are patentable by virtue of dependency as well as for their additional recitations.

II. Conclusion.

All matters having been addressed and for at least the foregoing reasons, Applicants respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975, Order No. 061069-0292953. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,
PILLSBURY WINTHROP LLP



E. RICO HERNANDEZ
Reg. No. 47641
Tel. No. (703) 905-2088
Fax No. (703) 905-2500
Customer No.: 00909

ERH/CFL/smm
P.O. Box 10500
McLean, VA 22102
(703) 905-2000